

Frequently Asked Questions and Answers

Q1: What constitutes a change in federal obligation?

A1: A change in federal obligation is a revision to the original requested obligation.

Q2: When is the federal obligation currently modified?

A2: MDOT routinely modifies the obligation to reflect the bid price at the award of the construction contract.

Q3: Can the local agency request additional funding if the bid prices corresponding to the participating items are higher than the estimated cost of the participating items at the time of obligation?

A3: According to the FHWA, the federal obligation can be modified up or down to reflect a “substantive” change in the bid prices as compared to the estimated cost of the project at the time of obligation. A one time change in the pro rata or increase in the lump sum amount for projects with bid prices that are more than 10% higher than the cost estimated at the time of obligation can be made at the request of the local agency with any necessary program administrator (e.g., MPO, Rural Task Force, Local Safety Program Administrator, Enhancement Administrator, etc.) approval. The lump sum amount or the pro rata can be changed only ONCE after it is submitted for obligation and approved by FHWA. This change can only occur shortly before or shortly after the award of the construction contract.

Q4: If the pro rata was less than the maximum legal pro rata at the time of obligation, can the local agency request a change in the pro rata if the bid prices corresponding to the participating items is lower than the estimated cost of participating items at the time of obligation?

A4: Yes. A one time change in the pro rata for projects with bid prices more than 10% lower than the cost estimated at the time of obligation can be made at the request of the local agency. This change can only occur shortly before or shortly after the award of the construction contract.

Q5: Under what condition is the lump sum amount which was originally established by the program administrator reduced?

A5: The federal lump sum amount is reduced if the lump sum amount divided by the total estimated cost of the federally participating items is greater than the legal pro rata share at the time of the award of the construction contract. For example, if the federal lump sum amount originally established by the program administrator is \$375,000, the legal pro rata is 80%, and the estimated cost of the federally participating items taking bid prices into account is \$450,000, then the federal lump sum amount will be reduced to \$360,000 ($\$450,000 \times 80\%$) at the time of the award of the construction contract. As such, \$360,000 will be the maximum amount of federal aid payable on the project.

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- Q6: Who will notify the local agency on a change to obligation dollar or lump sum amount as a result of the bid price? Also, when will this notification be given?
- A6: If a justification for a project is needed because the bid price is more than 10% over the engineer's "opinion of costs," Local Agency Programs will contact the local agency. Otherwise, the local agency is responsible for viewing bid prices and, subsequently, initiating a request for a change in the federal pro rata or an increase in the lump sum amount established by the program administrator. Should the lump sum amount be reduced after bids are received, the local agency can contact MDOT to determine what the reduced amount is.
- Q7: What timeframe does the local agency have to request and obtain approval for a one time change in the pro rata or lump sum as a result of a substantive change in bid prices?
- A7: We would expect the local agency to obtain and forward any necessary program administrator (e.g., MPO, Rural Task Force, Local Safety Program Administrator, Enhancement Administrator, etc.) approval to the appropriate Project Development Engineer within three weeks of the bid opening (as checked bids should be available on MDOT's Bid Letting website within one week after bid opening). Projects with expedited awards will be handled on a case-by-case basis.
- Q8: At what point in the process is the federal obligation percentage or lump sum amount locked?
- A8: The federal obligation percentage or lump sum amount is locked at the point when the one time change has been made. If an approved request for change is not submitted and received by the deadline as set in the answer to Question 7, the federal obligation percentage or lump sum amount is locked and cannot be changed.
- Q9: Would Local Agency Programs make revisions to cost participation agreements that are not executed?
- A9: Local Agency Programs would prefer to make changes to the cost participation agreement while in process instead of after the cost participation agreement is executed. If a cost participation agreement is already executed, an amendment will have to be written. An amendment goes through a similar process for review, approval, and execution as the original cost participation agreement does. With modification to language in the cost participation agreement addressing the lump sum amount, a reduction in the lump sum amount after taking bid prices into account will not require revisions to the cost participation agreement or an amendment. Revisions to the cost participation agreement will be necessary should additional federal funding be approved beyond the lump sum amount established by the program administrator or should the federal pro rata be changed.

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